



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

201447057

AUG 25 2014

Uniform Issue List: 408.03-00

Legend:

Taxpayer A	=
IRA B	=
Financial Institution C	=
Account D	=
Individual E	=
Amount 1	=
Amount 2	=
Amount 3	=
Amount 4	=
Amount 5	=

Dear :

This letter is in response to your request dated May 5, 2014, from your authorized representatives, in which you have requested a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Taxpayer A represents that he took a distribution of Amount 1 from IRA B. Taxpayer A asserts that his failure to accomplish a rollover of Amount 1 within the 60-day period prescribed by Code section 408(d)(3) was due to his medical condition which impaired his ability to manage his financial affairs.

Taxpayer A maintained IRA B, an individual retirement account (IRA) under section 408 of the Code. Taxpayer A represents that, on October 18, 2011, he closed IRA B by withdrawing Amount 1. But for the distribution of Amount 1 on October 18, 2011, Taxpayer A has represented that his required minimum distributions from IRA B for tax years 2012, 2013 and 2014, as calculated by IRA B's custodian, would have been Amounts 2, 3 and 4, respectively.

IRA B was managed by a financial advisor with the investments department of Financial Institution C. As a result of a medical condition affecting Taxpayer A's mental state, Taxpayer A grew to mistrust this individual, even falsely accusing him of stealing funds from IRA B. Further as a result of his medical condition, Taxpayer A feared that additional funds would be stolen, and Taxpayer A transferred Amount 1 in IRA B to a non-IRA investment account with Financial Institution C.

In June of 2012, Taxpayer A's spouse (Individual E) discovered that Amount 1 had been withdrawn from IRA B. Taxpayer A represents that during the 60-day rollover period, due to his medical condition, he was unable to understand the tax consequences of the withdrawal of Amount 1 from IRA B. The ruling request is supported by letters and extensive medical documentation from his physicians that explain Taxpayer A's medical condition and the medications he was taking during this period.

Based on the above facts and representations, you request that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 1.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if -

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60<sup>th</sup> day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60<sup>th</sup> day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and the documentation submitted by Taxpayer A is consistent with his assertion that his failure to accomplish a timely rollover of Amount 1 was due to his medical condition which impaired his ability to manage his financial affairs.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA B. Taxpayer A is granted a period of 60 days from the

issuance of this letter ruling to transfer an amount not to exceed Amount 5 (Amount 1 less Amounts 2, 3 and 4) into a rollover IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter ruling has been sent to your authorized representatives pursuant to a power of attorney on file in this office. If you wish to inquire about this ruling, please contact (I.D. # ), at ( ) .

Sincerely yours,

*Carlton A. Watkins*

Manager  
Employee Plans Technical Group 1

Enclosures:

Deleted Copy of this Letter  
Notice of Intention to Disclose, Notice 437

cc: